

**Zoning Board of Adjustment Public Meeting
Richmond Veterans Hall**

October 10, 2018

7:00 PM

Members Present

Mark Beauregard, Chairman
Alan Schmidt,
Lloyd Condon
Larry Richardson
Jean Tandy, Alt.

Members Absent

Tom Lavoie Vice Chair

Public: Spencer Heise, Michael Bailey, Damont Whitaker, Ron Dunn Jr., Sara Dunn, Travis Tarbell Jr., Patrick Montgomery, Dakota Jones, Andrew Pearsall Jr., Jon Pratt, Kevin Duffy, Kyle Huntoon, Scott Weeks, Jeffrey Pike, Ed Atkins, Jonathon Pike, R. Blair Heise, Gerald H Cote, Seth DuPont, Scott woods, Joseph Daves, Mark Beal, John Holman, Michele Thurber, Bonnie Pratt, Dan Pratt, Trevor Daugherty, Jonathom Beal, Angela Cummings, Christin R. Daugherty, Maureen Daugherty, Chip Hagar, Barb Hagar, Scott R. Laurie, Alyssa Deem Chelsea St. Pierre, Cameron P. St. Pierre, Lynn M. Mason, James E. Mountford III, Shannon Deem, Brendan Bosquet, Madison Daniels, Jennifer Daniels, William Daniels, Alan Bielunis, Richard Drew (Surveyor). April Beal, Nicholas Owen.

1. Meeting called to order/roll call:

Jean Tandy seated for Tom Lavoie.

2. Map 202Lot 045 Public Hearing:

Public Hearing called to order for Map 202 Lot 045 at 7:05 PM.

Public Hearing was publicly posted inside and outside of the Richmond Town Hall and outside of the Richmond Veterans Hall on September 26, 2018. Posting ran in the September 26, 2018 issue of the Keene Sentinel under the legal section of the paper. Certified mailing non returned receipt requested was mailed on September 26, 2018 to all abutters next to, behind, across Rt. 32 and across water in reference to the public hearing. All postings offered application information to the public for viewing at the Richmond Town Hall during regular hours.

Chairman Beauregard explained to the public how the hearing would be run. First the applicant will give a description of what is being asked for. Second residents speaking for the applicant will have the floor. Third residents speaking against the applicant will have the floor and finally residents speaking for the applicant will be given a chance to rebuttal information given against the applicant. The public was asked not to discuss information already given and not to talk amongst themselves or at each other and to please address the board. Finally, the hearing will be closed and the board will begin their deliberations on the application.

Richard Drew (Surveyor) explained the site and application to the public. The applicant is seeking a proposed Special Exception from **Article 4, more specifically 403.5** to change 1.80 acres of residential property from residentially zoned to commercially zoned property for use as a automobile repair, sales, dealership license and inspection station, **Article 17: Definitions more specifically 1712 Commercial Uses**, Drew stating that presently and since 2006 Map 202 Lot 045 has been offering auto repair and sales with a second building permit

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for a carport in 2012.

The property has access located on a State Highway Rt. 32 S. (Athol Road) with parking area; buildings are in place and a storage area for vehicles. The property is isolated from surrounding properties with a natural buffer to help with noise, light, odors, glare and dust from neighboring properties. The applicants would like to continue their present level of auto repair and acquire a dealership license to attend auctions, sell vehicles and offer state inspections on their site.

In addition, the applicant asked for a propose **Special Exception (Commercial) from Article 1105, Special Exceptions under 1105.4 Commercial or Light Industrial Uses, more specifically 1105.4.1** Total area of the lot. Presently 1105.4.1 allows 10,000 square feet for commercial use (adopted 2013). The applicant would like a proposed 22,000 sq. feet associated with the proposed use. It was mentioned that the present area occupied by the proposed commercial business has been operating since 2006 and was in existence before this Zoning Ordinance was created. The present building site meets all building setbacks except wetlands.

In addition, the applicant is proposing an **Equitable Waiver of Dimensional Requirements from Article 6: Wetlands Conservation District under 602.1 Purpose and more specifically 602.1** in reference to preventing development of structures and land uses on naturally occurring wetlands. The present parking area used for storage and repair of vehicles borders the edge of the wetlands. The present Town setback to wetlands is 75' for all structures.

Chairman Beauregard opened the floor to all residents who wanted to speak for the application.

Fire Chief Ed Atkins spoke highly of the mechanical work that the applicant has supplied to the town fire equipment. Keeping Engines on the road for the cost of parts (discounted not retail) and charging no labor. This work included engines, brush truck, tanker, rescue vehicle, side by side and other equipment. Having the applicants business in town assured that there was a live body to answer emergency calls during the day, both the applicant and his son could operate all equipment in the firehouse.

John Holman (Fitzwilliam resident and Richmond's winter subcontractor) added that any equipment in town the applicant could work on. Winter time the applicant could keep the equipment needed up and running to keep the roadways cleared for safe passage.

Brendon Bosquet added that the applicant could work on any vehicles, they were good friends of the town and could service most makes of vehicles and were not to expensive.

Christin Daugherty spoke that the applicant provided a very valuable service to the town they were good and honest to people in town and offered fair prices. It seemed like this issue has been in the background for so long and is now coming to light. Mr. Daugherty continued that he was told by the applicant that the selectmen at the time told the applicant that he could do what he wanted to do with his property just don't put a sign on the road.

At this time ZBA member Jean Tandy mentioned that the issue is complicated. This wasn't about the applicant but rather having a business located where it affects the water sources and vales of natural resources. The zoning has changed since the initial building permit for a garage in 2006 vs. the application for a commercially zoned piece of property now in 2018 the Earth has changed. Education about the effects short and long term have been examined and made public.

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Kandace Mattson Land Use Assistant asked for the floor and stepped away from the board and explained that the integrity of the applicant wasn't a concern to the Zoning Board of Adjustment. The ZBA wasn't here to put the applicant out of business but rather to examine the information and attempt to come up with a reasonable solution that would be satisfactory to all involved. This was a very difficult application and with the help of the Conservation Commission and possibly the Planning Board its hopeful a reasonable solution can be found.

The question was asked by Lyn Mason what the applicant would do until a decision was made. Kandace Mattson asked the applicant if he received a cease and desists. The answer was no, so at this time until the situation is figured out it would be business as usual for the applicant.

With no further comments from residents speaking positively for the applicant Chairman Beauregard asked for residents speaking against the application.

Bob Weeks Map 202 Lot 43 an abutter to the rear of the applicant's property spoke against the proposed Zoning change of residential to commercial, from 10.000 sq. feet to 22.000 sq. feet and strong opposition to commercial business being located within the wetland setbacks. (See attached both letters submitted to the ZBA). Mr. Weeks (summarized by Kandace .Mattson see attached letters and Google earth photo) realizes that this is a difficult matter. The applicant is a well known in town, a friend, neighbor and is just a good guy. Mr. Weeks expressed that this is not a good business to be located in a great residential area of the town. The smell, sounds and sights of a repair shop was altering the value of his property. Mr. Weeks continued that the applicant should be held accountable for the conditions of the property and to criteria set forth by the residents of Richmond.

Mr. Weeks has concern for the environmental impacts the applicants business could have on the wetlands. The internet site "Google earth" clearly shows that impact. It also impacts the ability to sell homes in the town of Richmond when the Zoning isn't properly enforced by the Selectmen in town.

Mr. Weeks concern for much of the property toward the rear of his lot where his garage is located in wetland. Attached is a map obtained from the town back in the late 80's. The location of the applicant's property and Mr. Week's property has been superimposed on the wetland map for inspection by the ZBA.

Mr. Weeks drew attention to the proposed increased size of the property that would be used specifically for his commercial business. Increasing from the allowable 10,000 sq. ft. to 22,000 sq. ft. With the new size, needed signage offering his services would further intrude on a quiet, calm residential zone resulting in an impact on neighboring property values.

Finally, Mr. Week's concern in the ZBA letter stated concerns of a repair business dealing with auto parts, gasoline, diesel fuel, oil and other engine liquids might pose a hazard to wetlands. Mr. Weeks also mentioned debris including a refrigerator, child's swing set and who knows what that were buried in a stump dump behind his house and the fact that it is still there today.

Mr. Weeks ended his letter with some suggestions that he would like to see accomplished through out the process and be minimized rather then enlarged further and that it is kept as neat as possible from the Rt. 32 access.

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Summarized by Kandace Mattson: Mark Laurie Map 202 Lot 44 an abutter to the proposed commercial lot expressed concerns for the rear parking lot and if it was a part of the 2006 permit or did it occur later? Mr. Laurie mentioned he felt that area would have been Wetland Conservation land (based on how wet the back portion of his property is), and what is/was buried during excavation.

Mr. Laurie goes on to ask questions of residential vs. commercial taxes to the town since 2006, state and federal taxes. Other concerns include hazardous materials that what is done with them. If they are removed receipts to showing proper detailing such removal. At present Mr. Laurie has clean water and would not want contamination introduced or seeping into the soil.

Mr. Laurie also indicated property values and what it could do to his. He also mentioned that if the town vehicles are repaired at this location without a valid State of NH license is there an impact. In closing he asked to have his letter included in the public record (see attached).

With no further comments from the public against the proposed application. Chairman Beauregard asked if anyone wanted rebuttal any comments made against the proposed application.

Richard Drew (surveyor) wanted to clarify that the size of the area will not increase any larger that at this time the area is already 22,000 sq. feet. Mr. Drew stated that the wetland map shown given to the ZBA isn't current but the board has all the power to ask for screening of the site and protection of wetlands. Fencing across the entry to the garage and so on.

John Homan (resident of Fitzwilliam and winter subcontractor for Richmond) mentioned that the applicant's lawn is mowed and there are no smells when you drive by. Many homes don't mow their lawns and the air smells as you drive by. He also questioned the junk trucks parked at the Camp ground down the road and what to do about that mess.

Bill Daniels mentioned he is a town father but tonight he wasn't wearing that hat that he has respect to the wetland but this is like closing the door after the issue is out. That is isn't reasonable to ask the applicant to tear down his buildings. Impact to the abutters if they wanted to they could go to the town hall and figure out value and taxes.

Angela Cummings added that there are no commercial enterprises in town. No post office or schools that an auto repair business will bring money to the town. Richmond is a positive place to live and she wants to stay here having an auto repair business in town would bring value to the community.

Christin Daugherty spoke about the discussion on property values and impacts and that this is something the board should take into consideration. This was not meant to be an illegal business and Mark is on the up and up to be transparent about the garage and his plans.

Chelsea St. Pierre added that the applicant had all of his building permits and the building was as it was required to be. There should be no problem.

There was a discussion and announcement in reference to the Conservation Commission site walk slated to be held on October 11, 2018 @ 7:00 PM on Map 202 Lot 45. Members of the ZBA that could attend were welcome to come and members of the public could attend if they wished.

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An unruly member of the public stood up and was promptly asked to leave by Chairman Beauregard. The board continued the public hearing until their next meeting looking forward to some input from the Conservation Commission site walk.

Public Hearing continued @ 8:30 PM. Next meeting of the Zoning Board of Adjustment will be set for November 14, 2018. This will give time for the Conservation Commission to give input and a quorum to be available for the continuation of the public hearing.

At this time the Zoning Board moved to a smaller meeting room and began their regular business in front of them.

3. Minutes August 8, 2018:

Page 2, third paragraph down, second line: gave to the puppies. Add the word **to**.

Fifth paragraph down, sixth line down: assures that they puppies, should read assures that **the** puppies. Change the word they to the.

Motion made by Lloyd Condon to accept the minutes as amended. Seconded by Alan Schmidt. All in favor. None opposed. Motion carries.

4. Other:

1. ZBA Application clarification:

The ZBA Application Instructions dated 4.2013 states that the application fee is \$100.00. If an applicant has more then one application should the cost be \$100.00/application. The Board in the past usually deals with only one request for a proposed relaxation of the Zoning Ordinances. More time and effort are put into multiple applications for the same map and lot number. After a discussion it was the consensus of the board that each application submitted should be treated separately and should pay a separate application fee of \$100.00 for each application submitted.

Motion made by Jean Tandy to clarify the procedure on the ZBA Application Instructions to \$100.00 per application submitted to the board. Seconded by Alan Schmidt. All in favor. None opposed. Motion carries.

The change will be made on the application and sent to the Town Hall to be posted on the town website.

2. Procedure cost for legal advertising:

At present the Zoning Board of Adjustment charges the applicant a flat rate of \$25.00 to cover the cost of the legal ad listed in the Keene Sentinel. Usually, the \$25.00 has covered the cost of advertising and on occasion the cost will go a little above. With the rising cost of advertising and the length of recent legal ads the cost is far out weighing the actual cost of the ad. Most recently the cost of one legal ad ran the board \$85.00 and the board recovered only \$25.00 of that cost. The board has in the past not added any extra for clerical costs of advertising and posting the ads in public areas. After a discussion the consensus of the board was to increase the cost of legal adverting and add \$25.00 extra to cover the cost of clerical.

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Motion was made by Jean Tandy to increase the cost of running the legal ad in the local newspaper to the actual cost of the ad and to add \$25.00 to that cost to aid in clerical services. Seconded by Lloyd Condon. All in favor. None opposed. Motion carries.

It was discussed that the cost of the legal ad and clerical cost could be given to the Planning Board on the night of the public hearing. At that time the invoice from the paper has been received by the town.

With no further business in front of the Board. Motion made by Alan Schmidt to adjourn. Seconded by Jean Tandy. All in favor. None opposed. Motion carries.

Meeting adjourned at 9:30 PM.

Respectfully Submitted,

Kandace Mattson